

## **REMARKS/ARGUMENTS**

### **35 U.S.C. §102**

On pages 2 and 3 of the Office Action, at paragraph 3, 4, and 5, claim 23 was rejected under 35 U.S.C. §102 (b) as being anticipated by Pockat et al. (US 5023121) as evidenced by Genske et al. (US 5407751).

Applicants respectfully traverse the rejection of claim 23.

Paragraph 5 of the Office Action states that

[a]lthough the claim recites “a sealant layer consisting essentially of PP and EVA”, the claim further recites “the bottom web of the vacuum skin package comprises”. Thus, the bottom web may comprise more than one “sealant layers, and since Pockat et al. teach the sealant resins may be added together or separately (Column 5, lines 25-35), Pockat et al. anticipates that claim.

Applicants respectfully disagree. Pockat teaches that

The polybutene/polypropylene blend *of sealant layer 26* is commercially available from Shell Oil Company as Shell 1560, and comprises a melt blend of 80% PB with 20% PP. Of course, the polybutene, polypropylene, and third polymeric material *of sealing layer 26* may be separately provided as independent resins which are blended at substantially the same time prior to coextrusion.

(emphasis added)

Pockat et al. specifically refer to “sealant layer 26”. This layer can have a purchased blend of polybutene/polypropylene (available from Shell Oil Company as Shell 1560).

Alternatively, the polybutene, polypropylene, and a third polymeric material (examples given in the paragraph starting on line 34) can be separately provided. However, Pockat et al. specifically refer in this alternative to the polybutene, polypropylene, and third polymeric material of sealing layer 26. There is no indication that Pockat et al. are referring to separate layers. On the contrary, Pockat et al. clearly and repeatedly make reference to the sealant layer 26 shown in Figure 4 of the reference, whether in the first alternative (purchased blend and third polymeric material) or the second alternative (three independent resins).

This interpretation of the Pockat et al. reference is further reinforced, in column 6, by the discussion of the “three-component blend of the sealant layer 26”.

. The issue here is not whether the bottom web of applicants' invention comprises more than one "sealant layers", but whether Pockat et al. teach a bottom web comprising a sealant layer *consisting essentially of* a blend of

- i) between 60% and 90%, by weight of the sealant layer, of ethylene/vinyl acetate copolymer, and
- ii) between 10% and 40%, by weight of the sealant layer, of polypropylene.

It is the applicants' position that Pockat does not teach this sealant layer.

The applicants note that Genske et al. is relied on, with respect to the 102 rejection, only for its teaching of microwaveable materials and easy peel lid stock, issues not germane to the above discussion of the sealant layer. Genske et al. al therefore add nothing further to this analysis.

Applicants respectfully submit that claim 23 as amended, and the claims dependent thereon, are patentable over the art of record.

35 U.S.C. §103(a)

On pages 3 and 4 of the Office Action, at paragraphs 6 through 9, claims 6 to 9, 16 to 19, 21 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pockat et al. (US 5023121) as evidenced by Genske et al. (US 5407751) in view of Hamazaki et al. (JP 01-096276 A).

All of the above claims have been canceled.

On page 5 of the Office Action, at paragraphs 11 and 12, claims 10 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pockat et al. (US 5023121) as evidenced by Genske et al. (US 5407751) in view of Hamazaki et al. (JP 01-096276 A) . . . further in view of Shibata et al. .

Both of the above claims have been canceled.

With respect to the 103 rejection of claim 24 at page 6, paragraphs 13 through 15 of the Office Action, claim 24 has been canceled.

The applicants respectfully ask the Examiner to consider the above discussion, and to allow the claims as now presented. The Commissioner is authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. 07-1765.

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Respectfully submitted,



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Date